



STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

WALTER E. WHITCOMB
COMMISSIONER
HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

November 18, 2011

John E. Dority Safety & Performance Training Center (Conference Room, Lower Level)
10 Mountain Avenue (off Route 201 going toward Skowhegan), Fairfield (Exit 133 from I-95)

AGENDA

9:30 AM

1. Introductions of Board and Staff
2. Minutes of the October 7, 2011, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Workshop Session to Review the Rulemaking Record on the Proposed Amendments to Chapters 28, 41, and 60, and the Proposed New Rule Chapter 33

(Note: No additional public comments may be accepted at this time.)

On September 14, 2011, a Notice of Agency Rulemaking Proposal was published in Maine's daily newspapers, opening the comment period on the proposed amendments to Chapters 28, 41, and 60, and the proposed new rule Chapter 33. A public hearing was held on October 7, 2011, at the Hampton Inn in Waterville, and the written comment period closed at 5:00 PM on October 21, 2011. Five people spoke at the public hearing and five written comments were accepted by the close of the comment period. The Board will now review the rulemaking comments and determine how it wishes to proceed with the rulemaking proposals.

Presentation by: Henry Jennings
Director

Action Needed: Discussion and determination on how the Board wishes to proceed with the rulemaking proposals

4. Consideration of a Board Policy to Delegate Approval of Chapter 29, Section 6, Variance Requests for Control of Plants that Pose a Dermal Toxicity Hazard

Chapter 29, Section 6, of the Board's rules, prohibits most broadcast applications of pesticides within 25 feet of certain defined surface waters. Applications to control stinging insects and arthropod vectors of

human disease are exempted, but control of vegetation that causes public health issues is not. Under certain circumstances the Board may grant variance permits and the staff is authorized to approve repeat variance requests when there have been no problems. However, a long delay in granting a recent variance request for control of poison ivy led to general agreement that Board approval of individual permits to address a poisonous plant problem is a cumbersome and slow approach, and that a policy that does not delay treatment and stresses Best Management Practices makes more sense. The staff has developed a draft policy for Board consideration.

Presentation by: Gary Fish
Manager of Pesticide Programs

Action Needed: Approve/disapprove the proposed policy

5. Consideration of Staff Negotiated Consent Agreement with Scotts Lawn Service of Gorham

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance in matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine and resolve the matter. This case involved the application of herbicides to the wrong property.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: Approve/disapprove the consent agreement negotiated by staff

6. Discussion of the Fee Exemption Contained in Chapter 28, Section 2—the Maine Pesticide Notification Registry for Non-Agricultural Pesticide Applications

A recent inquiry from a Rockport resident about registering his property in order to receive notification about outdoor pesticide applications led to a request for clarification of what “extenuating circumstances” means under the fee exemption clause of Chapter 28, Section 2(G). The Board will now discuss this question.

Presentation by: Henry Jennings
Director

Action Needed: Clarify meaning of “extenuating circumstances” for the registry fee exemption

7. Other Old or New Business

- a. Submission of the completed GEA Report to the ACF Committee—H. Jennings
- b. Discussion of scheduling a Board planning session and possible topics—H. Jennings
- c. Discussion of how the monthly Board packet should be sent to Board members—P. Schlein
- d. Other?

8. Schedule of Future Meetings

December 16, 2011 (snow date December 23), and January 20 and February 24, 2012, are the tentative dates for future Board meetings. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

9. Adjourn

NOTES

- The Board Meeting Agenda and most supporting documents are posted one week before the meeting on the Board website at www.thinkfirstspraylast.org.
- Any person wishing to receive notices and agendas for meetings of the Board, Medical Advisory Committee, or Environmental Risk Advisory Committee must submit a request in writing to the Board's office. Any person with technical expertise who would like to volunteer for service on either committee is invited to submit their resume for future consideration.
- On November 16, 2007, the Board adopted the following policy for submission and distribution of comments and information when conducting routine business (product registration, variances, enforcement actions, etc.):
 - *For regular, non-rulemaking business*, the Board will accept pesticide-related letters, reports, and articles. Reports and articles must be from peer-reviewed journals. E-mail, hard copy, or fax should be sent to the attention of Paul Schlein, Public Education Specialist, at the Board's office. In order for the Board to receive this information in time for distribution and consideration at its next meeting, all communications must be received by 8:00 AM, three days prior to the Board meeting date (e.g., if the meeting is on a Friday, the deadline would be Tuesday at 8:00 AM). Any information received after the deadline will be held over for the next meeting.
- During rulemaking, when proposing new or amending old regulations, the Board is subject to the requirements of the APA (Administrative Procedures Act), and comments must be taken according to the rules established by the Legislature.